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PSC Monthly Meeting - November 19, 2015

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

MEETING OF THE PUBLIC SERVICE COMMISSION

Thursday, November 19, 2015
10:30 a.m.
Three Empire State Plaza
Agency Building 3, 19th Floor
Albany, New York

COMMISSIONERS

AUDREY ZIBELMAN, Chair
GREGG C. SAYRE
PATRICIA L. ACAMPORA
DIANE BURMAN

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2 MS. BURGESS: Good morning, Chair and
3 Commissioners. There's no changes to this morning's agenda.

4 CHAIR ZIBELMAN: I know there's probably a
5 lot of curiosity as to why we're not proceeding today with
6 the Clean Energy Fund and the Utility Energy Efficiency
7 Program, so I just wanted to take a couple minutes to explain
8 why we -- they are no longer on the agenda.

9 Obviously, both the Clean Energy Fund and the
10 Utilities Energy Efficiency programs are incredibly important
11 pillars of the REV process. And while we had planned to take
12 the matters up today, we made a determination that they were
13 really not quite ready. And the reason is, is that because
14 these programs are actually so important to us, we wanted to
15 make sure that we are examining all the issues, important
16 obviously for our consumers as well as producers and
17 suppliers, and so we made a determination that rather than
18 handle with them today, we would delay them.

19 Now, I want to be clear, it is absolutely our
20 intent to pursue these programs. Nobody should read anything
21 into this delay, other than these are complex matters,
22 important matters for the State Energy Policy, and it's
23 important that we get it right.

24 Now, in the interim, I am going to ask staff
25 to continue to work with NYSERDA and the utilities, because

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2 we do not want any disruption into continuing programs, and
3 we expect to be handling this as soon as possible. But
4 again, don't read anything into this. It's only a matter of
5 the fact that these matters are critical to the State, and we
6 have to get them right, and it's more important that we take
7 the time to do that. So that that is why they're not on the
8 agenda.

9 And so with that, I'm going turn to our first
10 item, which is 101A, and it's in the matter of the
11 investigation relating to the March 12th explosion in New
12 York. And I think Kevin Speicher, who's the Chief Pipeline
13 Safety, and Diane Dean are going to be presenting that to us.
14 So welcome, and please proceed.

15 MR. SPEICHER: Thank you. Good morning Chair
16 Zibelman and Commissioners. I am here to present the results
17 of the investigation into the explosion and collapse of the
18 buildings at 1644 and 1646 Park Avenue in East Harlem in New
19 York City on March 12, 2014. This is in the gas service
20 territory of Consolidated Edison. This incident involved
21 eight fatalities, approximately fifty injuries, and the
22 displacement of over one hundred families in the area of the
23 explosion.

24 The Department fielded two staff teams to
25 investigate this incident. One staff team was charged with

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2 assisting the Federal National Transportation Safety Board
3 and its investigation into the probable cause of the
4 incident. Although the NTSB does not have formal authority
5 to regulate the transportation industry, it conducts
6 thorough, independent investigations of transportation
7 accidents. The NTSB develops factual records and typically
8 makes recommendations from these investigations to improve
9 transportation safety.

10 The other staff team conducted the State's
11 investigation and looked to find the root cause of the
12 incident, and to determine whether any Con Ed actions or
13 facilities were positive or contributory to the incident, and
14 determine whether New York's gas safety regulations and
15 Commission policies were followed before, during, and after
16 the incident. The NTSB report has been issued and is
17 available to the public.

18 Today, I will report on the results of the
19 staff team investigation. This was a complex investigation
20 that primarily involved staff assigned to our New York City
21 office and Albany office, but touched all of our staff. I
22 will focus on a timeline that includes four distinct periods.
23 The first will focus on the period of time leading up to the
24 installation of the service to 1642 Park Avenue in December
25 of 2011.

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2 The next will focus on the period of time
3 from the installation of this service until the incident on
4 March 12, 2014.

5 The third period will focus on actions that
6 took place during the incident. And the last will focus on
7 the time period after of the incident.

8 Pre-installation. In 2001, in New York City
9 Department of Environmental Protection did a sewer camera
10 inspection of the sewer main running along Park Avenue
11 identified missing bricks.

12 In December 2011, in accordance with Con Ed
13 procedures and New York Gas safety requirements, Con Edison
14 replaced the section of cast iron main with plastic, and
15 fused a new two inch plastic gas service to serve 1642 Park
16 Avenue.

17 Post-installation, but pre-incident. In July
18 of 2013, Con Ed conducted mobile leakage surveys of Park
19 Avenue. No leaks were found. On February 28, Con Ed
20 conducted a winter frost leakage survey over the cast iron on
21 Park Avenue. This included the section of gas main that was
22 replaced in 2011. No leaks were found. Both of these
23 leakage surveys were conducted as part of Con Ed's normal
24 operation and maintenance activities, and were not in
25 response to any leak or odor complaint. On March 5, 2014,

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2 New York City DEP conducted a water leakage survey on Park
3 Avenue. Again, no leaks were found.

4 March 9th, New York City DOT made road
5 repairs of the sinkhole in front of 1646 Park Ave., several
6 sinkholes were made in the same area between 2004 and 2014.
7 On March 12th, approximately nineteen minutes before the
8 explosion, Con Ed received a report of a gas odor from a
9 resident of 1652 Park Avenue. There were no other records of
10 odor calls discovered during the investigation. While Con Ed
11 personnel were en route, the buildings at 1644 and 1646 Park
12 Avenue exploded.

13 The incident response. Staff investigation
14 of the incident response determined that upon receiving the
15 odor call immediately prior to the incident, the company
16 dispatched representative, dispatched personnel to respond to
17 the odor complaint.

18 However, the dispatch representative failed
19 to follow emergency guidelines to request fire department
20 assistance for a report of gas inside and outside of a gas
21 building, as reported by the caller.

22 Because the company did not install an
23 isolation valve during the 2011 main replacement adjacent to
24 1642 Park Avenue, as required by company procedures to
25 minimize the isolation area during emergencies, company

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2 personnel were needed to dig three fire banks to stop the
3 flow of gas to the incident site. To be clear, the
4 installation of the valve would not have prevented this
5 incident, but could have reduced the amount of time needed to
6 shut the flow of gas to the incident site.

7 Post incident. Following the incident, as
8 detailed previously in the commission order in case 14-G-
9 0212, Con Edison reviewed the qualifications of all their
10 fusers and initiated a company-wide stand down while the
11 company and contractor personnel were properly qualified. In
12 addition, Con Edison continues to perform assessments on
13 plastic fusions made during the periods of qualification,
14 non-compliance.

15 After the incident, Con Ed made changes to
16 its Public Awareness Program. These changes include an
17 increase and frequency of messaging urging customers to
18 report gas odors and added the option of dialing 911 to
19 report these gas odors. Con Edison and National Grid have
20 worked with New York City to advance protocols for response
21 to gas odors. This cooperation assures that companies are
22 notified of any gas leaks recorded via 911.

23 Finally, Con Ed has increased system-wide
24 leakage surveys to a frequency of one per month. This
25 frequency exceeds regulatory requirements.

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2 The summary of the investigation. Staff team
3 investigation determined that the sewer below the gas main
4 along Park Avenue was breached, allowing backfill to erode,
5 removing support from below the gas main in front of 1642
6 Park Avenue. This caused the fuse connecting the two inch
7 service feed in front of 1642 Park Avenue to the eight inch
8 plastic gas main to fail, allowing gas to escape. Analysis
9 by the NTSB pointed to incomplete fusion caused by
10 contamination of the fusion surface. In addition, both
11 investigations agree that the fuse did not meet the visual
12 acceptance criteria. While the only leak reported to Con Ed,
13 New York City, 311 or 911 preceding the incident was reported
14 immediately prior to the incident, staff interviews of people
15 nearby of the incident determined that several people smelled
16 gas prior to the incident.

17 In addition, following the incident,
18 significant gas readings were found along Park Avenue. Staff
19 determined that the qualification of the contractor
20 performing the plastic fusion to the service to 1642 Park
21 Avenue on December 8th December 28th, had lapsed one month
22 prior to the installation of the service.

23 In addition, the contractor was not properly
24 qualified during initial qualification testing, or during any
25 subsequent requalification for fusing a service feed because

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2 the qualification testing did not include a destructive
3 examination of the test fuse.

4 Finally, the procedure being used to fuse the
5 service feed had not been properly qualified. As discussed
6 in the previous plastic fusion order, Con Edison has taken
7 steps to be sure that persons performing plastic fusion are
8 qualified according to the requirements of Part 255 point
9 285. Staff was not able to find any evidence that a visual
10 inspection of the fuse was conducted prior to the energizing
11 of the service line.

12 Visual examination of the fuse after the
13 incident shows that it should not have been placed into
14 service. Finally, Con Edison procedures were not followed
15 when the tracer wire was wrapped around the service feed.

16 It should be noted that in addition to the
17 failure of the fuse to the 1642 service, a small crack was
18 found in the body of the service feed. NTSB analysis
19 determined that this crack was caused post-incident.
20 Calculations of potential flow rates through the cracks
21 support this analysis.

22 Recommendations. To help assure that the
23 safety of the Con Edison gas system in this report, staff is
24 making a series of recommendations to Con Edison. These
25 recommendations address areas of concern discovered by staff

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2 during the investigation.

3 First, during routine operations and
4 maintenance work, Con Edison should document any significant
5 road depressions, sinkholes, and any uneven road pavement
6 conditions, which may potentially pose a threat to Con Ed gas
7 facilities. Con Ed should follow up such observations by
8 notifying the municipal agencies responsible, so that
9 potential threats to underground utilities can be addressed
10 before they become a serious threat.

11 Next, Con Edison should ensure strict
12 compliance with its operator qualification plan. This should
13 be verified through a robust quality assurance program. Con
14 Edison shall increase QAQC inspections of construction,
15 operations, and maintenance activities.

16 And Con Edison shall review the adequacy of
17 all distribution system valve placements and address any
18 deficiencies to minimize hazards to life and property, and to
19 reduce the amount of time needed to shut down sections during
20 an emergency.

21 Finally, Con Edison should continuously
22 evaluate the effectiveness of its Public Awareness Program
23 and explore additional measures to increase its
24 effectiveness.

25 Given these findings made during this

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2 investigation, I now turn the presentation over to Diane Dean for
3 further discussion on commission action.

4 CHAIR ZIBELMAN: Thank you, Kevin. Welcome,
5 Diane.

6 DIANE DEAN: Good morning, Chair Zibelman
7 and Commissioners. Kevin has described what staff has
8 concluded with the facility failures that caused the East
9 Harlem explosion. The Department's incident report has been
10 filed with the secretary, and will be posted to the public
11 docket in this case.

12 Based on the facts in the Department's
13 report, staff also believes that sufficient evidence exists
14 to conclude that violations of commission gas safety
15 regulations did occur. Therefore, staff recommends the
16 Commission issue the order to show cause before you, which
17 requires ConEdison to respond to staff's conclusions.

18 Staff identified eleven regulatory failures
19 associated with the incident. Staff believes that some of
20 those caused or contributed to the incident and some did not.
21 For instance, at the time the fusion was completed, Con
22 Edison had in place qualifying procedures that were not
23 entirely consistent with what is required in commission
24 regulations. Commission rules require that only persons who
25 have been trained using all the required training components

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2 may complete plastic fusions.

3 The worker who completed the fusion that
4 separated, however, had not completed the destructive testing
5 component of the required training procedures.

6 Therefore, staff believes the plastic fusion
7 had not been completed in accordance with commission
8 regulations.

9 Another example of a violation staff
10 identified, is that Con Edison failed to repair or replace
11 the fusion that should not have passed a visual inspection,
12 as Kevin described. Staff concluded that Con Edison failed
13 to remove and replace that fusion from the date it was placed
14 into service on December 28, 2011, until the date of the
15 incident, March 12, 2014.

16 With respect to Con Edison violations that
17 occurred on the day of the incident, among other things,
18 staff believes Con Edison violated its own procedures in not
19 calling the fire department of the City of New York after
20 receiving a two-odor call. That is, the person who reported
21 the odor at the building at 1652 reported smelling the odor
22 inside his apartment and outside. Under Con Edison
23 procedures, that's considered a two-odor call. Con Edison
24 did call the FDNY, but instead of asking for fire department
25 backup, Con Edison ended the call.

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2 Given these types of regulatory failures,
3 staff believes the next most effective step in the
4 enforcement process is to issue an order to show cause. The
5 draft order requires Con Edison to demonstrate why penalty
6 actions under Public Service Law sections 25 and 25A, as well
7 as a prudence proceeding should not be commenced for
8 violations of gas safety regulations in parts 255 and 262.
9 The draft order does not pre-judge or make any commission
10 determinations of law or fact. Rather, it obligates Con
11 Edison to provide justification, if any exists, for the
12 company's actions or inactions related to the East Harlem
13 incident on the regulations that apply.

14 Based upon that response, and if the facts
15 warrant, the Commission could proceed with any one or all of
16 the following:

17 Either authorizing Counsel to proceed in
18 Supreme Court in a civil action under Public Service Law
19 section 25, commencing a commission administrative
20 enforcement proceeding under Public Service Law section
21 25(a), or commencing a prudence proceeding, by which the
22 commission, after further hearing, could disallow in rates
23 any costs the Commission decides Con Edison had imprudently
24 incurred. The order allows Con Edison thirty days to
25 respond. Staff will come back to the Commission for any

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2 further action in this case. Kevin and I are prepared to
3 answer any questions you might have.

4 CHAIR ZIBELMAN: Thank you. Let me just
5 start off. I think I speak for everybody in this room and in
6 all of our various capacities as parents, children,
7 grandparents, siblings, coworkers, friends, that these types
8 of incidents are horrific and we all, I think, feel the
9 tragedy, and I know that's shared by the companies, as well
10 as people in this room, and we're not going to forget that.

11 We though, at the Department and also at the
12 Commission, have another role as regulators, and our jobs as
13 regulators are to try to understand these industries and also
14 understand the dangers inherent in them, and make sure that
15 we develop the rules that keep people as safe as possible.
16 That is our principal job. And it's -- so in that context,
17 not only do we need to make sure that the rules are right, we
18 need to make sure that they're complied with in all their
19 fidelity, and then when things like this happen, we need to
20 understand the root cause and we need to think about what
21 changes need to be made to make sure that people remain safe.

22 So with that, certainly, I'm prepared and I
23 believe that the staff here has done a very thorough job of
24 looking at what happened. I -- you know, it's -- I would say
25 that a lot of us at this Commission really appreciate the

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2 Department, the work particularly, of our gas safety staff
3 because of how difficult this was for them at a very personal
4 level. So I know this is very tough and I'm usually -- it's
5 hard to think about these things, but I certainly intend to
6 say that I'm going to vote to move this forward. Also, I
7 need to ask if any of my other Commissioners have anything to
8 say or want to comment.

9 COMMISSIONER SAYRE: It's my understanding
10 that Consolidated Edison does not agree with everything
11 that's in the NTSB report, or everything that is going to
12 come out in this staff report. We will give Con Ed a full
13 and fair opportunity make its case on the issues of whether
14 they violated our rules, and what were the causes of this
15 horrible incident, and then we'll make our decision.

16 I'd like to take this opportunity to urge the
17 public, once again, as we've been doing all along, if you
18 smell gas, report it. If you don't know how to report it,
19 call 911. It's not clear that earlier reporting would have
20 prevented this horrible tragedy but it is possible. So
21 please, be vigilant.

22 CHAIR ZIBELMAN: Thank you. Commissioner Burman?

23 COMMISSIONER BURMAN: I concur with your
24 comments on moving forward with the order to show cause. I
25 also want to, you know, pause to remember the families and

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2 the victims, but also the emergency responders who worked
3 tirelessly.

4 It is important for us, as Commissioner
5 Sayre talked about it, about reminding folks that if they do
6 smell gas, the message really is simple: If you smell gas,
7 act fast. There are a few things to keep in mind. Leave the
8 premises immediately. Do not do anything to create a spark,
9 such as lighting a match, turning appliances on or off, using
10 a phone or cell phone, starting a car, or using the doorbell.
11 After you're in a safe area from the smell, call 911 or your
12 utility. Call even if the gas order is faint or if you're
13 not sure if it is a gas smell. Don't assume someone else has
14 called, and you can report anonymously. Thank you.

15 CHAIR ZIBELMAN: Ms. Acampora?

16 COMMISSIONER ACAMPORA: I have a question.
17 Usually, it's the Con Ed employees who have the availability
18 of those small meters that detect gas odors. How much does
19 one of those meters cost?

20 MR. SPEICHER: Right now there's a
21 commercially available methane detector, it's available at
22 like Home Depot and Lowe's from, you know, like forty-five
23 dollars on up. They're better than nothing but if -- there's
24 a lot of work being done into coming up with a standard and
25 essentially putting out a next generation device that would

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2 be much more reliable as far as not giving false positives or
3 false negatives.

4 COMMISSIONER ACAMPORA: And the reason I ask
5 that question is: I agree that, you know, we still have a
6 long way to go with smell something, make a call right away.
7 And I'm thinking that possibly having emergency responders
8 who are in neighborhoods, police officers, fire department
9 members, have the availability of also having those devices.
10 So, there's not only the utility that would be the one in the
11 neighborhood who, again, may detect something just on a
12 regular call of duty someplace.

13 You know, we try to learn things from
14 horrible incidents like this and, you know, it's always about
15 lessons learned. However, you know, there's not enough money
16 out there to pay for a lost life, nor fix those people who
17 were horrifically damaged for the rest of their lives. So I
18 think that, you know, in moving forward, we also need to
19 think about what other ways are there to, again, gain more
20 attention to what is possibly laying out there waiting to
21 happen.

22 And I thank all of you. Our briefings
23 were fabulous and very professional and also very emotional.
24 So, I think we're all emotional here today.

25 CHAIR ZIBELMAN: Thank you. And I know that

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2 staff is working with all the utilities to look at different
3 technologies like methane detectors and I think it's the Gas
4 Research Council Group is also working on technologies. I
5 think we all agree that it's time for us to start thinking
6 about how do we avoid -- how do we stop having to rely on
7 just individuals and how do we use technologies better to get
8 there.

9 I also want to note, in addition, that
10 while we start with this proceeding, it was, you know, it --
11 the company, to my knowledge, has always been fully
12 cooperative with the staff and their investigations. And I
13 also know that immediately after the incident, the companies
14 began working with the city to look for ways to get things
15 done better. And so while we are going to proceed, and as
16 Commissioner Sayre said, we are going to ask for the company
17 to answer the staff's investigation. We do -- I do want to
18 make it clear that they didn't pass us by as how the fact
19 that Con Ed immediately began responding and looking to make
20 sure that it was doing the right things. So that, I think,
21 is important as well.

22 With that, let me move to vote. All
23 those in favor in proceeding with the show-cause proceedings,
24 please indicate by saying, "Aye."

25 COMMISSIONERS: Aye.

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2 CHAIR ZIBELMAN: Opposed? Hearing none. We will
3 commence the proceeding.

4 Raj, I do know that you had a number of
5 staff who are involved here that ordinarily don't come in
6 front of the proceeding and come to the Commission, and I do
7 want to note my appreciation. It was a significant staff, a
8 significant amount of work, and obviously in difficult
9 circumstances so I'd like to thank them. But could you
10 please indicate who they were?

11 MR. ADDEPALLI: Yes, Chair. And as you said,
12 this is a tough investigation. While there's a human side to
13 it, there is also an enormous amount of technical analysis
14 that went into determining the root cause, so we can do
15 lessons learned to minimize future possibilities. So let me
16 recognize the staff members, for their hard work on this
17 investigation.

18 As you said, this is probably one of the
19 biggest gas safety investigations this department ever
20 conducted. It took nearly a year and a half for this effort.

21 As Kevin mentioned, it touched most of the
22 gas safety staff as well as several folks in the Counsel's
23 office, and the Office of Consumer Services. Excuse me.

24 I'd like to especially recognize staff
25 members Chris Stolicky, Suresh Thomas, Arpit Mehta, Sergey

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2 Peschanyy, Jonathan Mercurio, Mark Stubel, Ranny Chow, Kevin
3 Speicher and Cindy McCarran from the office of Electric, Gas
4 and Water. And Diane Dean and Jane Cicerani from Counsel's
5 office. Excuse me. And Erin O'Dell-Keller and Laura
6 Gillings from the Office of Consumer Services for their
7 effort on the East Harlem investigation. And also thanks to
8 Kim Harriman and Tom Congdon for their guidance throughout
9 this process. And a special thank you to you Chair for your
10 extraordinary support of staff during the event and after.

11 CHAIR ZIBELMAN: Thanks, Raj. So we're going
12 to move on. I also thought that because we had other gas
13 safety items that we have under investigation, I know that
14 commissions, you know, wanted to get up-to-speed on where we
15 are and the progress. I've asked Cindy to provide us an
16 update on the other items so that's -- Cindy, you have -- I
17 think there are two that you wanted to update us on that we
18 commenced. These are other investigations we did after other
19 incidents, and I think it was important that we see where
20 they are in process.

21 MS. McCARRAN: Yeah, that's correct. Thank
22 you, Chair Zibelman and good morning, Chair and
23 Commissioners. Item 101B is an update on the status of two
24 other gas safety initiatives begun by the Commission in 2014.
25 The two proceedings are case 11-G-0565, which involved the

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2 investigation of an incident on Joseph Street in Horseheads
3 in 2011.

4 I'll refer to that as the Joseph Street
5 incident. And case 14-G-0212 which is the investigation of
6 plastic fusion training and qualifications in the wake of
7 these incidents that Kevin referenced in his presentation.

8 The Joseph Street incident was caused by
9 an improper repair to damage believed to be done by a third
10 party to a natural gas service line to a residence in New
11 York State Electric and Gas, or NYSEG's, service territory
12 without NYSEG's knowledge.

13 The damage is believed to have been caused
14 when water or sewer infrastructure was installed in the
15 1970s, some twenty years after the gas line was installed.
16 The newer infrastructure in question was installed deeper
17 than the gas lines, so that excavation was done around and
18 under the gas lines.

19 Upon investigation, NYSEG determined
20 that many other service lines in Horseheads had been
21 similarly damaged and as -- so that NYSEG then replaced those
22 service lines. And as a result of the incident, the
23 Commission ordered all New York State Gas Local Distribution
24 Companies, or LDCs, to survey their systems to determine if
25 similar problems might exist in their communities and then to

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2 assess the safety risk and to develop a remediation plan.

3 The LDCs worked with the local municipalities to determine
4 those areas where infrastructure had been installed after and
5 below natural gas lines.

6 Many also used a subject matter expert, the
7 Gas Technology Institute, which is also known as GTI, to help
8 develop a statistically random sampling methodology to assess
9 third-party damage to installed gas facilities. The results
10 indicate that there is no evidence of widespread latent
11 third-party damage to the gas distribution system beyond that
12 found in NYSEG. NYSEG has found some additional damage in
13 the Elmira area and is in the process of replacing about two
14 thousand service lines there.

15 National Grid is also investigating the
16 cause of damages found at four isolated locations. There
17 does not appear to be notable risk associated with latent
18 third party damages for any utility except NYSEG, who again,
19 has taken actions to address the concern. And the majority
20 of the LDCs indicate that analysis of third party damages
21 will be incorporated into their distribution integrity
22 management plans on a going-forward basis. These plans
23 require the LDCs to monitor known threats to their systems
24 such as excavation and work to mitigate perceived risks to
25 public safety.

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2 Coming to the second investigation in
3 the plastic fusion proceeding, which Kevin also referenced in
4 his remarks, you know, that one came out of the East Harlem
5 incident. The Commission ordered the LDCs to review their
6 employee qualification procedures for performing plastic
7 fusion and qualifications for compliance with State
8 regulations, and if any noncompliance was found to report
9 back on the LDC's actions to address the noncompliance. In
10 addition, the Commission asked the LDCs to assess any
11 increased safety risk, as a result of potential noncompliance
12 and to develop a remediation plan to address the risk.

13 Staff had discovered that Con Edison was not
14 in compliance with certain elements of the State regulations,
15 so the Commission ordered Con Edison to report on its actions
16 to address the situation. More specifically, Con Edison had
17 not been destructively testing a sample of an employee or
18 contractor's work to verify integrity during employee
19 requalification for plastic fusion. And in addition, Con
20 Edison was also not requalifying employees in a timely
21 manner.

22 When this situation was first discovered
23 in May 2014, Con Ed immediately ceased all plastic fusion
24 work until all employees and contractors were properly tested
25 and qualified. Of the remaining seventeen LDCs in the state,

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2 there were no violations found at twelve of them. For the
3 other five, utilities found instances of noncompliance, which
4 were limited in scope, and mainly because some LDCs had
5 allowed too much time to lapse before requalifying employees
6 or contractors, and/or some had not conducted the proper
7 testing, such as the destructive testing during the
8 requalifying process. These LDCs, again, all stopped plastic
9 fusion for all employees not properly qualified until they
10 were able to administer the proper testing.

11 In terms of risk assessment and
12 remediation plans, all the affected LDC submitted assessment
13 and remediation plans. The assessments consisted of a
14 combination of random sampling, which considered evaluation
15 of all plastic fusions, targeted sampling, which considered
16 specific fusions performed by known workers, not properly
17 qualified, and opportunistic sampling, which considered
18 evaluations of fusions encountered during, you know, other
19 types of normal operations. For some of the LDCs found to be
20 in noncompliance, the population of fusions performed by
21 persons not properly qualified was relatively small. So a
22 statistically significant random sample size was one hundred
23 fusions or less.

24 The LDCs then excavated those sample
25 fusions and inspected them visually. If they did not pass

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2 the visual inspection, they were then removed, replaced with
3 acceptable work, and the cut out fusion was brought to their
4 lab for testing. Four LDCs have completed their assessment
5 or remediation plans. Again, they found very limited
6 instances of plastic fusions which did not pass visual
7 inspection, but in all cases they did pass destructive
8 testing at those LDCs.

9 And again, they repaired anything that they
10 encountered that was not visually acceptable.

11 One LDC is still in the remediation
12 phase of its plan but is expected to be completed in 2016.
13 And then Con Ed is still in the assessment phase of its plan,
14 as it had the largest total population of fusions to
15 investigate. They have hired an expert statistician to
16 assist in developing a truly random sample of installations
17 that need to be excavated and assessed. They've begun that
18 process but they need additional time. Con Ed expects to
19 complete this in 2016, and then begin remediation if it's
20 found to be necessary.

21 It should be noted that all companies,
22 including those that had no compliance issues, are performing
23 assessments of all fusions exposed during other work.

24 The changes directed by the Commission
25 earlier this year requiring all LDCs to maintain records on

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2 plastic fusion going forward, as well as a second visual
3 inspection of all plastic fusion performed, and inspection of
4 all plastic fusion uncovered during the normal course of
5 work, will further ensure quality control and assurance going
6 forward.

7 In summary, both the Horseheads and East
8 Harlem incidents raised safety concerns. The Commission
9 ordered the LDCs to assess risk and develop remediation
10 plans. Except for some work remaining at NYSEG, and the LDCs
11 work is completed in responding to the Commission order
12 resulting from the Horseheads' incident. Also, except for
13 Con Edison, the LDCs work is completed in responding to the
14 Commission order resulting from the East Harlem incident.

15 This concludes my remarks, and I'll be happy
16 to take any questions. And of course I have, you know, my
17 heavy hitters here Kevin and Chris in case I can't answer a
18 question.

19 CHAIR ZIBELMAN: It was not a comment about
20 your weight. Any questions for Cindy? Or anyone else? Or
21 comments?

22 COMMISSIONER BURMAN: Thank you very much for
23 that update. I think like before, with talking about if you
24 smell gas, act fast, it's appropriate here to talk about our
25 one-call notification systems. And you know, this is sort of

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2 a reminder that excavators and contractors under State Law
3 are required to call one of the State's toll-free, one-call
4 centers before starting any excavation or digging project.

5 We have two. In New York, New York 811
6 is the one-call notification system serving New York City and
7 Long Island. And Dig Safely New York is the other, serving
8 the remainder of the State and when calling from, you can
9 simply dial 811. You can also go on their websites, which
10 gives information including what the current law is and
11 frequently asked questions, as well as how to take advantage
12 of training programs. New York dash 811 dot com, or Dig
13 Safely New York dot com.

14 I'm really, you know, have been focused
15 on the one-call notification systems and looking at how folks
16 were collaboratively together with these two. Both of them
17 have been in existence for many years and are constantly
18 refining and improving their systems. And it's, for me,
19 important to also look at ways that we can help. I know the
20 Northeast Gas Association, with their member utilities, have
21 been really working hard in looking at help with better
22 implementation of the 811 system and working directly, not
23 only with staff but with the two one-call communication
24 centers. And I think for us we should really make sure that
25 we're giving them as much attention to that and support. And

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2 you know, I know that the Northeast Gas Association also has,
3 through its NYSEARCH Nonprofit Collaborative Research and
4 Development Demonstration Organization is dedicated to
5 looking at ways to do R and D to improve gas safety issues
6 and it really -- you know, we also have a current PILOT
7 program that we're working with NYSEARCH and one of the
8 utilities on.

9 So for all of that, I think it's just a
10 reminder, again, about the 811 and call before you dig. And
11 while it's mandated for excavators and contractors,
12 homeowners can also take advantage of it. You know, I don't
13 have a husband who does work on his own, so we've always been
14 blessed with the contractors that we do hire, making sure
15 that they are calling 811. But even for something like
16 putting in an in-ground basketball hoop or a mailbox, it's
17 important to make sure that you call 811 beforehand. Thank
18 you.

19 CHAIR ZIBELMAN: Anymore questions or
20 comments?

21 Thank you, Cindy. We're going to move on to
22 the consent agenda, and before I ask for votes or comments, I
23 did want a couple updates just on matters. So during the
24 last couple weeks, I issued a one Commission order with
25 respect to the Astral matter before us today, and I have

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2 asked Luann to give us an update on the staff's investigation
3 into Astral. Would you, proceed?

4 MS. SAHERER: Great. So good morning. Since
5 the November 6, 2015, order suspending Astral Energy's
6 authority to enroll customers, and also in accordance with
7 the October 15 show-cause order Astral filed its thirty day
8 response on Monday. It's about seventy pages long. So
9 staff, including Robin Taylor and Chris Bosy are currently
10 reviewing the response and we will work with Astral to
11 resolve any deficiencies. However, before any -- before
12 Astral can start marketing again in New York, it will require
13 Commission action. Thank you.

14 CHAIR ZIBELMAN: Any questions for Luann on
15 that? The other item I wanted is that we have item 562,
16 which is the area codes 212 area code relief, and if you all
17 recall -- I spent last weekend in Tennessee with my Tennessee
18 grandchildren so I'm ya'lling still.

19 We had an item regarding area code 315 and I
20 thought it'd be helpful for Peter to give us a quick update.

21 MR. MCGOWAN: Yes, good morning. In July,
22 the Commission did -- in July, the Commission did approve the
23 new area code overlay for 315. In order to ensure an orderly
24 and timely implementation and avoid any disruption that would
25 result from the unavailability of numbers, but wanted to make

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2 sure that the projected exhaust date, which had been up and
3 down over the past several years, was as the Commission
4 forecasted it to be back in July.

5 And so the North American number
6 administrator did provide its most recent forecast in
7 October, and that forecast does remain with the same exhaust
8 date.

9 So there has been no change and the plans are
10 proceeding, and we will continue to monitor the reports that
11 we do get from the North American numbering plan on both 315
12 and 212.

13 CHAIR ZIBELMAN: So we'll as we did with 212
14 before we actually move ahead with implementation, we'll make
15 sure that the status is the same?

16 MR. MCGOWAN: Yes.

17 CHAIR ZIBELMAN: Okay, great. Thanks. Okay.
18 With that, do any of the Commissioners want to recuse from
19 voting on any of the items of the consent agenda? Any
20 further comments or questions? Thank you. I'm going to then
21 move to a vote. All those in favor of the recommendation on
22 the consent agenda, please consent by saying, "Aye."

23 COMMISSIONERS: Aye.

24 CHAIR ZIBELMAN: Opposed? Hearing no
25 opposition and there being none, the recommendations are

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2 adopted. Secretary Burgess, is there anything more in front
3 of us today?

4 MS. BURGESS: There's nothing more for today.
5 The next Commission session is on December 17 in Albany.

6 CHAIR ZIBELMAN: Okay. I wish everybody a
7 very safe and happy Thanksgiving, and look forward to seeing
8 you in December.

9 (The session concluded)

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3 STATE OF NEW YORK

4 I, JEFFERY ALLEN, do hereby certify that the foregoing was
5 reported by me, in the cause, at the time and place, as
6 stated in the caption hereto, at Page 1 hereof; that the
7 foregoing typewritten transcription consisting of pages 1
8 through 31, is a true record of all proceedings had at the
9 hearing.

10 IN WITNESS WHEREOF, I have hereunto subscribed
11 my name, this the 26th day of November, 2015.

12

13

14 JEFFERY ALLEN, Reporter

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